

Ill., and other places within the jurisdiction of the court, an article of drug which he manufactured and packed, and which consisted of a bottle of liquid prepared from vinegar, potassium nitrate, and alcohol, and a package of tablets containing pepsin and pancreatin. The bottle of liquid was labeled "The Hartman Diabetic Hospital Granville, Illinois P. V. Hartman, Sr., M. D. Reg. No. 1778 -----, 194-- For ----- Address ----- Dr. Hartman's Modified Diabetic Treatment —Always Shake Well— Take one table-spoon full in  $\frac{1}{2}$  glass of water, add juice of  $\frac{1}{2}$  orange and sip with your meals. Be sure to take three tablets before each meal. Avoid sugars and starches. Walk twice every day, two or three miles if possible." The package of tablets was labeled "The Hartman Clinic Granville Illinois \* \* \* Directions: Take three tablets with each meal." A booklet entitled "A Brochure on Diabetes," and containing a discussion of the cause of diabetes and an outline of the method of treatment by Dr. Perry Vernon Hartman, Sr., accompanied the article of drug as labeling. The article of drug was charged to be misbranded under Section 502 (a), in that the statements in its labeling which represented and suggested that it would be efficacious in the cure, mitigation, and treatment of diabetes, were false and misleading since it would not be efficacious for such purposes.

**PRAYER OF COMPLAINT:** That the defendant be restrained and enjoined during the pendency of the action, and permanently, from commission of the acts complained of.

**DISPOSITION:** May 26, 1948. The defendant having admitted the facts charged in the complaint, and having consented to the entry of a decree, the court entered an order enjoining the defendant from directly or indirectly introducing or delivering for introduction into interstate commerce, in violation of Section 301 (a) of the Act, the article of drug or any like or similar preparation similarly labeled and misbranded. It was ordered also that at the request of an officer or employee designated by the Federal Security Administrator, the defendant should permit such officer or employee at reasonable times to have access to, and to copy all records showing the movement in interstate commerce of, the article of drug or any similar preparation, and the quantity, the shipper, and the consignee thereof.

**2418. Misbranding of Lin-A-Cea. U. S. v. Parke D. Brollier (Park-Lee Products Co.).** Plea of nolo contendere. Fine, \$300 and costs. (F. D. C. No. 23242. Sample No. 38406-H.)

**INDICTMENT RETURNED:** February 16, 1948, Northern District of Ohio, against Parke D. Brollier, trading as Park-Lee Products Co., Lorain, Ohio.

**ALLEGED SHIPMENT:** Or or about August 22, 1946, from the State of Ohio into the State of Michigan.

**PRODUCT:** Examination showed that the product was ground, roasted flaxseed.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the label statements, "due to the high percentage of Linoleic, Linolenic Acids, one or two heaping tea-spoonfuls three or four times a day is usually sufficient. \* \* \* The important Amino Acids Cystine Methionine Arginine Histidine Lysine Tyrosine Tryptophane Phenylalanine Threonine Leucine Valine Iso-leucine \* \* \* The Amino, Linoleic, Linolenic Acids are Nutritionally Essential," and certain statements appearing in a circular entitled "Lin-A-Cea," which was enclosed in the package containing the article, were false and misleading. These statements represented and suggested that the amino acid and linoleic and linolenic acids content of the article was significantly different from that found in the ordinary diet; that the article would furnish nutritional elements which are not readily supplied by the ordinary diet; that the amino acids and linoleic acids are usually lacking in the ordinary diet; and that the article would be efficacious in the cure, mitigation, and treatment of fatigue, indigestion, high blood pressure, asthma, sinus trouble, painful movement of the joints, eczema, and lack of resistance to disease. The amino acid and linoleic and linolenic acids content of the article was not significantly different from that found in the ordinary diet; the article would furnish no nutritional elements which are not readily supplied by the ordinary diet; the amino acids and linoleic and linolenic acids are not usually lacking in the ordinary diet; and the article would not be efficacious in the cure, mitigation, and treatment of the above-mentioned disease conditions.

The article was alleged also to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: May 10, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$300 and costs.

**2419. Alleged misbranding of Protecto. U. S. v. Bess J. Levine (Miracle Food Co.). Plea of not guilty. Tried to the court. Verdict of not guilty.** (F. D. C. No. 23588. Sample No. 41022-H.)

INFORMATION FILED: February 13, 1948, Eastern District of Pennsylvania, against Bess J. Levine, trading as the Miracle Food Co., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about January 31, 1947, from the State of Pennsylvania into the State of Tennessee.

LABEL, IN PART: "Protecto contains Milk Whey Powder, Malt Sugar 200,000,000 of Acidurid Bacteria per 1. C. C. 16 ozs. \* \* \* Expir. date Apr. 2, 1947."

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statements "Contains \* \* \* 200,000,000 of Acidurid Bacteria per 1. C. C. \* \* \* Expir. date Apr. 2, 1947" were false and misleading, since the statements represented and suggested that prior to April 2, 1947, the article would contain not less than 200,000,000 acidurid bacteria per 1 cc. The article on a date prior to April 2, 1947, namely, March 17, 1947, contained less than .4 percent of the acidurid bacteria represented.

The article was alleged also to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial before the court without a jury on the basis of the stipulation and briefs of the parties. On July 1, 1948, the court found the defendant not guilty and handed down the following opinion:

WELSH, JR., *District Judge*: "This is a prosecution begun by information, containing two counts, charging Bess J. Levine, an individual trading as Miracle Food Company, with violation of the Act of Congress of June 25, 1938, c. 675, 52 Stat. 1040, 21 U. S. C. Section 301-392, known as the Federal Food, Drug, and Cosmetic Act.

"The defendant, Bess J. Levine, is registered under the Fictitious Names Act of Pennsylvania as owner of the Miracle Food Company and has her principal place of business at 218 North 62nd Street, Philadelphia, Pennsylvania. The Miracle Food Company is the successor to Miracle Health Food Company, formerly operated at 259 South 11th Street, Philadelphia, Pennsylvania, by the defendant.

"In 1936, the defendant, Bess J. Levine, commenced to operate the business of exploiting a line of 'health foods.' Among the health foods and dietary remedies promoted by the defendant was the product 'Protecto' represented as a culture containing large numbers of Lactic acid bacilli.

"The product is manufactured by the Earp Laboratories, Caldwell (Bloomfield), New Jersey. It is shipped to the defendant unlabeled. It is then labeled by the defendant on the basis of the analysis supplied by the Earp Laboratories. Finally, the product is shipped by the defendant repacked and under her own label in interstate commerce.

"The trial was without a jury and the following is the stipulation entered into by counsel for the government and for the defendant:

#### STIPULATION

It is hereby stipulated and agreed by and between counsel for the government and counsel for the defendant, Bess J. Levine, an individual trading as Miracle Food Company, that the following facts may be considered by this Court as true and correct for the purpose of the case, and are offered by the respective parties in lieu of evidence thereof; That on or about January 29, 1947 the Miracle Food Company, 259 South 11th Street, Philadelphia 7, Pennsylvania, shipped via Super Service Motor Truck from 259 South 11th Street, Philadelphia 7, Pennsylvania, to Health Food Store, 206 North Cleveland Curb Market, Memphis, Tennessee, certain articles of foods and drugs including 12 bottles each containing 16 ounces, the said bottles bearing labels as follows: and hereinafter referred to as "Protecto"—

"Protecto"  
contains  
Milk Whey Powder, Malt Sugar  
200,000,000 of Acidurid Bacteria  
per 1 C. C.  
Lactose

16 ozs.

\$1.25

Made for  
MIRACLE FOOD CO.  
Philadelphia, Pa.  
(stamped)

Expir. date

Apr. 2, 1947